

Application No. 10/693,163

January 12, 2006

Amendment responsive to Office Action of November 15, 2005

Remarks

All pending Claims 1 – 20 stand rejected by the Examiner under 35 U.S.C. §112(e) and 35 U.S.C. §102(e). The reference relied upon by Examiner to reject the claims is U.S. 6,804,684 B2 issued to *Stubler and Mehrotra*.

In response to the Office action, Applicant has cancelled claims 1-20 and added new claims 21-36. Claims 21-36 now remain pending and are presented for further examination.

Examiner rejected claims 1-20 under 35 U.S.C. §112(e) because the claims contained a negative limitation specifying that the database statistics module is not part of the database. The specification contained no language explicitly prohibiting the database statistics module from being part of the database. To address this issue, Applicant has submitted claims without the negative limitation. The new claims are based largely on Fig. 1 and the discussion beginning at paragraph 20. The term "image database" is now used to avoid confusion with the term "database statistics module". Furthermore, the use and operation of the database statistics module as a module that supplies finer scale keywords based on a set of primary keywords is explicitly presented. As such, no negative recitation is needed because of the positive inclusion of the database statistics module along with its utility.

Examiner relied on *Stubler* to reject claims 1-20 under 35 U.S.C. §112(e). The primary reason appears to be that *Stubler* teaches a computer program in which database statistics are produced. Computer programs are often referred to as modules. As such, Examiner interpreted the *Stubler* reference as presenting Applicant's database statistics module. *Stubler's* computer program uses, in essence, the results produced by a content based image retrieval (CBIR) system to identify similar images and then to assemble a list of keywords based

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on the identified similar images. Applicant uses a similar technique to produce a set of primary keywords. From the example of paragraph 24 of the specification, "Family", "Vacation", "Friends", and "Cars" are primary keywords. At this point, Applicant's invention diverges significantly from anything presented in the prior art.

A database statistics module is used to produce a set of finer scale keywords. In the example of paragraph 24, database statistics (histograms) reveal that the primary keyword "Family" is associated with the keywords "Sascha", "Melissa", "Gela", "Oma", and "Opa". As such "Sascha", "Melissa", "Gela", "Oma", and "Opa" are finer scale keywords. Another set of finer scale keywords is associated with the primary keyword "Friends".

The database statistics module is very different from *Stubler's* computer program in that it produces and maintains database statistics that relate patterns of keyword occurrence. The patterns of keyword occurrence are only peripherally related to *Stubler's* method of assembling primary keyword's based on CBIR outputs. To quote Applicant's specification (end of paragraph 24): "the CBIR is used to create a high likelihood of primary category and database statistics are used to create finer scale keywords."

Conclusion

In view of the foregoing remarks, the Applicant submit that Claims 21-36 are patentably distinct over the references and are in allowable form. Accordingly, the Applicant earnestly solicit the favorable consideration of their application, and respectfully request that it be passed to issue in its present condition.

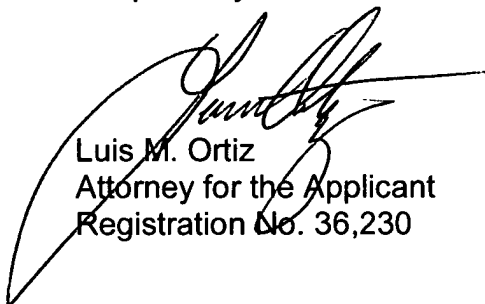
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Should the Examiner discern any remaining impediment to the prompt allowance of the aforementioned claims that might be resolved or overcome with the aid a telephone conference, he is cordially invited to call the undersigned at the telephone number set out below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Luis M. Ortiz', is written over the typed name and title.

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